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8 **IN THE UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 CITY OF SAN DIEGO,

14 Defendant.

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)
) CIV. NO. 03-CV-1349K (POR)
)
) PARTIAL CONSENT DECREE
)
)
)

15 SAN DIEGO BAYKEEPER, et al.,

16 Plaintiffs,

17 v.

18 CITY OF SAN DIEGO,

19 Defendant.

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) CIV. NO. 01-CV-0550B (POR)
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1 **WHEREAS**, Plaintiff, the United States of America ("United States"), by the authority of
2 the Attorney General of the United States and through its undersigned counsel, acting at the
3 request and on behalf of the Administrator of the United States Environmental Protection Agency
4 ("EPA"), filed a Complaint on July 9, 2003, seeking injunctive relief and civil penalties pursuant
5 to Section 309 of the Federal Water Pollution Control Act, as amended by the Clean Water Act
6 of 1977 and the Water Quality Act of 1987 ("CWA" or "Act"), 33 U.S.C. § 1319, naming as
7 defendant the City of San Diego, California ("the City");

8 **WHEREAS**, the State of California, ("the State") ex rel. the Regional Water Quality
9 Control Board, San Diego Region, ("the Regional Board") filed a Complaint on July 11, 2003,
10 seeking injunctive relief pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, naming as
11 defendant the City;

12 **WHEREAS**, Plaintiffs San Diego Baykeeper ("Baykeeper") and the Surfrider
13 Foundation ("Surfrider") (herein collectively "Citizen Plaintiffs") served the City; the United
14 States Attorney General; EPA; the State Water Resources Control Board; and the Regional
15 Board, with a notice of intent to file suit ("60-Day Notice") under Sections 505(a) and (b) of the
16 CWA, 33 U.S.C. § 1365(a) and (b) on October 30, 2000, alleging that the City had in the past
17 and continues to violate Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by violating the City's
18 Sanitary and Storm Water Permits;

19 **WHEREAS**, on March 29, 2001, Baykeeper and Surfrider filed a Complaint against the
20 City;

21 **WHEREAS**, the City owns and operates a publicly-owned wastewater collection and
22 treatment system that is regulated by identical 2002 permits issued by EPA under the CWA and
23 the Regional Board under the California Porter-Cologne Water Quality Control Act, respectively,
24 NPDES permit CA0107409 (September 13, 2002), Order Number R-9-2002-0025 (April 10,
25 2002) and Order Number 2002-0013 (August 15, 2002)("the permit");

WHEREAS, the Plaintiffs allege that the City has violated and continues to violate the CWA as a result of sanitary sewer overflows (“SSOs”) from its publicly-owned treatment system;

WHEREAS, EPA issued a Finding of Violation and Order pursuant to Sections 308(a) and 309(a) of the CWA on April 5, 2002, setting forth a comprehensive set of requirements to be met by the City to reduce and eliminate sewage spills;

WHEREAS, the City contends that it has upgraded the operation and maintenance of its wastewater collection and treatment system to reduce unpermitted overflows and that its operation and maintenance program meets or exceeds all applicable federal and state regulations;

WHEREAS, the Mayor and Members of the City Council created a formal Citizen's Clean Water Task Force to reduce SSOs and passed Resolution No. R-295587 on October 16, 2001, which raised sewer service rates 7.5% for each of the Fiscal Years 2002-2005 and dedicated a specific portion of those increases exclusively to sewer pipe replacement and rehabilitation;

WHEREAS, the City contends that since calendar year 2000 the City has reduced wastewater overflows;

WHEREAS, the City paid penalties of \$6,258,900 to the Regional Board from 2000 to 2005 for sewage spills occurring prior to October 1, 2004 (\$2,115,500 in cash and \$4,143,400 in supplemental environmental projects);

WHEREAS, the parties agree that the City must pursue short and long term infrastructure improvements and upgrades designed to reduce municipal sanitary sewer overflows;

WHEREAS, the parties agree that entry of this Partial Consent Decree is an appropriate way to require the immediate implementation of the short-term capital improvement projects and the operation and maintenance and other requirements in Section VII (Compliance Actions) Paragraphs B - D of this Partial Consent Decree;

1 **WHEREAS**, the United States, Citizen Plaintiffs, and the City (collectively referred to
2 herein as the "Settling Parties" or "Parties") agree that it is in the public interest to enter into this
3 Partial Consent Decree;

4 **WHEREAS**, the Court finds that this Partial Consent Decree is a reasonable and fair and
5 partial settlement and that it adequately protects the public interest in accordance with the CWA.

6 **WHEREAS**, the parties intend to lodge a Final Consent Decree no later than June 30,
7 2006, addressing the long-term operation and maintenance requirements and capital
8 improvement projects relating to the City's Collection System; and

9 **NOW THEREFORE**, it is hereby ORDERED, ADJUDGED, and DECREED as
10 follows:

11 **I. JURISDICTION**

12 This Court has jurisdiction over the subject matter of the claims asserted by the United
13 States pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b) and 28 U.S.C. § 1331. This
14 Court has jurisdiction over the claims brought by the Baykeeper and Surfrider pursuant to
15 Section 505(a) of the CWA, 33 U.S.C. § 1365(a), and 28 U.S.C. § 1331.

16 **II. VENUE**

17 Venue is proper in the United States District Court for the Southern District of California
18 pursuant to Sections 309(b) and 505(c) of the CWA, 33 U.S.C. §§ 1319(b) and 1365(c), and
19 28 U.S.C. §§ 1391(b), because it is the judicial district in which the alleged violations occurred.

20 **III. PARTIES**

21 A. Baykeeper is a nonprofit public benefit corporation organized under the laws of
22 the State of California, with its principal place of business in San Diego, California. Baykeeper
23 is a membership organization that is dedicated to the preservation and enjoyment of the oceans,
24 waves, and beaches. Its members currently use and enjoy the ocean and beaches of San Diego
25 County for a variety of recreational, esthetic, economic, and other purposes. Baykeeper brought
26 this action on behalf of itself and its members.

1 B. Surfrider is a nonprofit public benefit corporation organized under the laws of the
2 State of California, with its principal place of business in San Clemente, California. Surfrider is
3 a membership organization that is dedicated to the preservation and enjoyment of the oceans,
4 waves, and beaches. Its members currently use and enjoy the ocean and beaches of San Diego
5 County for a variety of recreational, esthetic, economic, and other purposes. Surfrider brought
6 this action on behalf of itself and its members.

7 C. The United States appears on behalf of EPA, a federal agency with responsibility
8 for enforcing the CWA.

9 D. The City is a California municipal corporation and possesses NPDES Permit No.
10 CA0107409 to discharge treated effluent from the Point Loma Metropolitan Wastewater
11 Treatment Plant. The City owns and operates a publicly owned treatment works as defined in
12 33 U.S.C. § 1292 and 40 C.F.R. § 403.3.

13 IV. DEFINITIONS

14 Unless otherwise defined herein, terms used in this Partial Consent Decree shall have the
15 meaning given to those terms in the CWA, 33 U.S.C. §§ 1251-1387, and the regulations
16 promulgated thereunder. For the purposes of this Partial Consent Decree, the following terms
17 shall have the meaning provided below:

18 "Acute Defect" means a defect that substantially increases the probability of a material
19 SSO, and includes conditions leading to imminent structural collapse or that would create
20 repeated blockages.

21 "Administrative Order" means the Finding of Violation and Order, Docket No.
22 CWA-309-9-02-17 that EPA issued to the City on April 5, 2002, pursuant to Sections 308(a) and
23 309(a) of the CWA.

24 "Canyon Economic and Environmental Analysis" means an analysis of the feasibility of
25 relocating sewer lines out of each canyon.

26 "Capital Improvement Program" ("CIP") means the City's ten (10) year "rolling" sewer
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1 repair, rehabilitation and replacement planning document.

2 "Collection System" means all pipes, manholes, sewer lines, pump stations, and
3 appurtenances thereto under ownership of the City that are intended to convey domestic or
4 industrial wastewater to the City's wastewater treatment plants.

5 "Contractor" as used in this Partial Consent Decree, means the City's contractor(s) and
6 subcontractor(s), agents, assigns, successors, and duly authorized representatives of City
7 contractors.

8 "Director" means the Director of the EPA Region 9 Water Division.

9 "Final Consent Decree" means a consent decree entered into by the United States and the
10 City that extends until at least 2012 and requires the City to perform long-term operation and
11 maintenance requirements and complete capital improvement projects relating to the City's
12 Collection System; and

13 "Lamping" means an inspection method in which a light source is put into a manhole and
14 a visual device, such as a mirror, is placed in an adjacent manhole to try to detect blockages in
15 the pipe.

16 "Large Diameter Pipes" means pipes in the City of San Diego's wastewater collection
17 system that are greater than fifteen (15) inches in diameter.

18 "Plan for Accelerated Cleaning Program" means the plan the City submitted to EPA on
19 September 27, 2002.

20 "Plan for Root Control Program" means the plan the City submitted to EPA on
21 September 27, 2002.

22 "Plan for Sewer Overflow Response and Tracking" means the plan the City submitted to
23 EPA dated October, 2003.

24 "Plan for Sewer Pipe Inspection and Condition Assessment" means the plan the City
25 submitted to EPA on September 27, 2002.

26 "Plan for Sewer Repair, Rehabilitation, and Replacement" means the plan the City
27

1 submitted to EPA on September 27, 2002.

2 "Plan for Fats, Oils & Grease ("FOG") Blockage Control" means the plan the City
3 submitted to EPA on September 27, 2002.

4 "Plan for Canyon Area Spill Elimination" means the plan the City submitted to EPA on
5 September 27, 2002.

6 "Plan for Pump Station and Force Main Spill Reduction Action" means the plan the City
7 submitted to EPA on September 27, 2002.

8 "Plan to Address Other Sanitary Sewer Overflows" means the plan the City submitted to
9 EPA on September 27, 2002.

10 "Plan for Capacity Assurance" means the plan the City submitted to EPA on September
11 27, 2002.

12 "Plan for System-wide Cleaning Program" means the plan the City submitted to EPA on
13 January 29, 2004.

14 "Sanitary Sewer Backup" or "SSB" is a wastewater backup into a building or solely onto
15 private property from a private lateral that is caused by a blockage or other malfunction in the
16 Collection System.

17 "Sanitary Sewer Overflow" or "SSO" means an overflow, spill, or release of wastewater
18 from the Collection System at any point upstream of the sewage treatment plant. For purposes of
19 this Partial Consent Decree only, an SSB is an SSO.

20 "Section" shall mean the sections denoted by a roman numeral.

21 "Small Diameter Pipes" means pipes in the City of San Diego wastewater collection
22 system that are less than or equal to fifteen (15) inches in diameter.

23 "United States" shall mean the United States of America.

24 **V. OBJECTIVES**

25 A. In entering into this Partial Consent Decree, the Parties intend to further the
26 objectives set forth in Section 101 of the CWA, 33 U.S.C. § 1251, and to achieve expeditious

1 compliance with this Partial Consent Decree for such purposes as eliminating spills to the extent
2 feasible.

3 B. The Administrative Order is hereby withdrawn by EPA upon entry of this Partial
4 Consent Decree.

5 **VI. BINDING EFFECT**

6 A. The provisions of this Partial Consent Decree shall apply to, and be binding upon
7 the City, United States, EPA, Baykeeper, and Surfrider and their successors and assigns.

8 B. The City shall give written notice, and provide a copy of this Partial Consent
9 Decree to any person or entity to whom the City may transfer ownership or operation of its
10 publicly owned treatment works, including any portion of the Collection System. The City shall
11 notify the United States and EPA in writing of any successor in interest at least forty-five (45)
12 days prior to any such transfer.

13 C. The City shall provide a copy of this Partial Consent Decree, or otherwise make it
14 available to:

15 1. each engineering, consulting, and contracting firm to be retained to
16 perform any material activities required by this Partial Consent Decree upon execution of any
17 contract relating to such work; and

18 2. each engineering, consulting, and contracting firm already retained for
19 such purpose.

20 D. In an action to enforce this Partial Consent Decree, the City shall not assert as a
21 defense against the Plaintiffs that any of its officers, directors, employees, agents, servants,
22 Contractors, successors or assigns are responsible for the City's failure to perform under this
23 Partial Consent Decree.

24 **VII. COMPLIANCE ACTIONS**

25 A. The City has completed the plans listed below for the operation and maintenance
26 of its Collection System. The City shall use best efforts to implement the plans identified below
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1 for the operation and maintenance of the Collection System. The City may subsequently modify
2 these Paragraph A plans to incorporate new information and to make maintenance of the
3 collection system more efficient or to make other changes that the City deems appropriate that
4 are not inconsistent with the objectives of this Partial Consent Decree. The City's obligation to
5 implement these Paragraph A plans shall not be subject to enforcement under this Partial Consent
6 Decree.

- 7 1. Plan for Sewer Overflow Response and Tracking;
- 8 2. Plan for System-wide Cleaning Program;
- 9 3. Plan for Accelerated Cleaning;
- 10 4. Plan for Root Control Program;
- 11 5. Plan for Sewer Pipe Inspection and Condition Assessment;
- 12 6. Plan for Sewer Repair, Rehabilitation and Replacement;
- 13 7. Plan for Fats, Oils & Grease ("FOG") Blockage Control;
- 14 8. Plan for Canyon Area Spill Elimination;
- 15 9. Plan for Pump Station and Force Main Spill Reduction Action;
- 16 10. Plan to Address Other Sanitary Sewer Overflows; and
- 17 11. Plan for Capacity Assurance.

18 The City shall implement and meet the specific requirements of Paragraphs B - H below.

19 In the event of a conflict between the requirements in Paragraphs B - H below and the Paragraph
20 A plans listed above, the requirements in Paragraphs B - H below shall supercede the listed
21 plans.

22 B. SSO RESPONSE AND TRACKING

23 1. In addition to the information required to be reported pursuant to
24 Regional Board Order WDR 96-04, the City's NPDES permit, and any other applicable local,
25 state or federal requirement, the City's Quarterly SSO reports required under Section VII
26 (Compliance Actions) Paragraph H of this Partial Consent Decree shall include at a minimum:

- a. the name of the trunk sewer (for SSOs relating to trunk sewers);
- b. the name of the canyon (for SSOs relating to canyons);
- c. the total SSO volume (excluding SSBs), the volume returned to the system, and the volume not captured; and
- d. the total SSB volume.

2. The City shall have crews on duty and available for response to SSOs twenty-four (24) hours per day every day of the year with the exception of the ten (10) holidays designated by the City. On each of the ten (10) holidays, the City shall have a duty supervisor on call who is able to immediately mobilize response crews. The City shall make all reasonable efforts to respond to a SSO within thirty (30) minutes of notification.

3. For any SSB about which a private customer contacts the City for assistance or the City otherwise responds to, if either a licensed plumber or the City concludes that an SSB has occurred, the City must follow the same response procedures as it follows for other SSOs.

4. The City shall maintain a SSO response log including response times. The City may maintain a separate log for SSBs.

5. The City shall operate and maintain a flow metering alarm system that covers at least ninety percent (90%) of the flow weighted length of the City's three hundred forty (340) miles of trunk sewers, including all canyon trunk sewers. The system must be capable of detecting and notifying City staff within ninety (90) minutes of reductions in flow of twenty-five percent (25%) or more of the average dry weather flow during dry weather conditions.

C. CONTROL OF NON-CAPACITY RELATED SSOS

1. SYSTEM-WIDE GRAVITY COLLECTION SYSTEM CLEANING PROGRAM

a. By March 31, 2004, with the exception noted below, the City shall complete at least one (1) cleaning of each sewer pipe in the City's two thousand eight hundred

1 nineteen (2,819) mile gravity municipal collection system. However, the City may decide not to
2 clean up to thirty (30) miles of pipe located in environmentally sensitive areas and/or in non-
3 right-of-way areas if the CCTV inspection demonstrates the pipe is clear, or for which permits
4 cannot be obtained by the City to allow for the cleaning prior to March 31, 2004. The City will
5 make all reasonable efforts to obtain such permits in a timely manner. In the event the CCTV
6 inspection demonstrates that the pipe requires cleaning, the City shall continue with the
7 permitting process for sewer pipe cleaning and complete the required cleaning activities within
8 six (6) months of completing the cleaning permit process.

9 b. Starting April 1, 2004, the City shall clean each sewer pipe in the
10 City's two thousand five hundred thirty-eight (2,538) mile small diameter gravity collection
11 system on a minimum five (5) year frequency. For each five (5) year cleaning cycle, the City
12 may elect to exclude from cleaning up to thirty (30) miles in environmentally sensitive non-right
13 of way areas if the CCTV inspection demonstrates the pipe is clear. Starting April 1, 2004, the
14 City shall clean each sewer pipe in the City's two hundred eighty-one (281) mile large diameter
15 gravity system on a minimum five (5) year frequency unless the City can demonstrate the pipe is
16 adequately clean through a cleaning needs assessment consisting of CCTV and hydraulic
17 investigation, manhole inspection, and/or personnel entry into the sewer pipe. All miles cleaned
18 under this Paragraph may be included in the one thousand five hundred (1,500) miles of annual
19 cleaning required in Section VII (Compliance Actions) Paragraph C 2a.

20 c. By March 1st of each calendar year and pursuant to Section VII
21 (Compliance Actions) Paragraph G of this Partial Consent Decree, the City shall submit an
22 annual report to EPA for review pursuant to Section VIII (Plan and Report Review and
23 Approval) that documents which sewers and how many miles of pipe were cleaned as part of the
24 system-wide cleaning program during the previous calendar year. The report shall distinguish
25 between sewer pipes in canyon and non-canyon areas. The annual report shall describe the status
26 of any pipes included in the thirty (30) miles described in Paragraphs a. and b. above, specify

which miles were included in the thirty (30) miles, and explain the basis for not cleaning any Large Diameter Pipes.

2. ACCELERATED PREVENTIVE MAINTENANCE (ACCELERATED PM) CLEANING PROGRAM

a. The City shall clean a minimum of one thousand five-hundred (1,500) miles of pipe per year. Calculation of the 1,500 miles may include problem pipe segments that are cleaned more frequently than annually.

b. To make changes to the cleaning frequency of its pipes, the City shall use a cleaning algorithm based upon SSO history and the pipe conditions observed in the field. The City shall use the following "condition findings" in its algorithm used to adjust pipe cleaning frequencies:

c. **CONDITION FINDINGS:**

Clear	Light	Medium	Heavy
No observable grease, roots, or sludge	1.0 to 1.5 gallons of sludge, small chunks of grease, slight detection of root mass, 20 to 30 minutes to clean a line, 1 to 2 passes to clear the water.	2 to 3 gallons of sludge, moderate chunks of grease, observable root mass, 30 minutes to clean a line, 2 to 3 passes to clear the water.	4 or more gallons of sludge, grease, clumps of roots, more than 30 minutes to clean, more than 4 passes to clear the water.

Note: A "line" is a pipe segment of approximately 300 feet length between two manholes.

d. Based on one of the methods below, the City may determine whether to increase or decrease the pipe cleaning frequency changes.

(i) **Method 1: Software Algorithm Recommendations**

Cleaning Frequency Decreases:		
Category	Findings	Frequency Step Change
1 to 6 Month:	Clear for three consecutive cleaning cycles	A One-Step Frequency Decrease to a time interval of 3, 6, or 12 months.
12 to 24 Month:	Clear for two consecutive cleaning	A One-Step Frequency Decrease to a time interval of 24 or 60 months.

Cleaning Frequency Decreases:		
Category	Findings	Frequency Step Change
	cycles	
60 Month:	N/A	Small diameter pipes on a 60 month schedule will never be cleaned less frequently. Large Diameter pipes may skip cleaning if a physical inspection per Section VII (Compliance Actions) Paragraph C 1b., determines that the pipe is clear.
Cleaning Frequency Increases:		
Category	Findings	Frequency Step Change
1 to 6 Month:	Findings of either 1 Medium Or 1 Heavy during any cleaning cycle	A One-Step Frequency Increase to a time interval of 1 or 3 months. An existing 1 month time interval will not be reduced but will be transferred for further consideration under Method 2: Crew/ Supervisor Recommendations.
12 to 24 Month:	Findings of either 2 Medium Or 1 Heavy during any cleaning cycle	A One-Step Frequency Increase to a time interval of 6 or 12 months.
60 Month:	Findings of either 1 Medium Or 1 Heavy during any cleaning cycle	A One-Step Frequency Increase to a time interval of 24 months.
Note: All Findings Depict Pipes that have been cleaned within +/-25% of their current frequency's scheduled cleaning date.		

(ii) Method 2: Crew/ Supervisor Recommendations

Changes to cleaning frequencies for pipes that recently have been repaired, rehabilitated, or replaced shall be made in Regular Sanitary Sewer Overflow Report Tracking ("SSORT") or other appropriate meetings held by City staff. Corrective actions and appropriate frequency adjustments shall be made based upon SSO/ blockage relief cleaning findings, historical cleaning data, and if available, CCTV data.

e. By March 1st of each year, and pursuant to Section VII

1 (Compliance Actions) Paragraph G of this Partial Consent Decree, the City shall submit an
2 annual report to EPA for review pursuant to Section VIII (Plan and Report Review and
3 Approval) that: (i) documents which sewers and how many miles of pipe were cleaned as part of
4 the Accelerated PM cleaning program during the previous calendar year; (ii) includes a table
5 containing the number of miles of sewer pipes within each cleaning frequency and the number of
6 miles identified for the Repair, Rehabilitation, and Replacement Program; (iii) describes the
7 success of the program at preventing repeat blockages and sewage overflows from pipes included
8 in the Accelerated PM cleaning program; and (iv) distinguishes between pipes in canyons and
9 pipes located elsewhere.
10
11

12 3. ROOT CONTROL PROGRAM

13 a. The City shall utilize mechanical root control to clean at least three
14 hundred fifty (350) miles of pipe each year. The 350 miles of pipe mechanically cleaned under
15 this Paragraph may be included in the cleaning miles required in Section VII (Compliance
16 Actions) Paragraph C 2a.
17

18 b. The City shall utilize chemical root control to treat at least one
19 hundred fifty (150) miles of pipe each year. Mileage chemically-treated under this Paragraph
20 may be included in the cleaning miles required in Section VII (Compliance Actions) Paragraph C
21 2a., if the chemical treatment is independent from the mechanical root cleaning miles counted in
22 Section VII (Compliance Actions) Paragraph C 3a.
23

24 c. By March 1st of each year, the City shall submit an annual report
25 pursuant to Section VII (Compliance Actions) Paragraph G of this Partial Consent Decree, to
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1 EPA for review pursuant to Section VIII (Plan and Report Review and Approval) documenting
2 how many miles of pipe were subject to mechanical and chemical root control, respectively,
3 during the previous year. The report shall evaluate the success of the program, distinguish
4 between pipes in canyons and pipes located elsewhere and document any problem pipe segments
5 or lines that are referred to the Sewer Repair, Rehabilitation, and Replacement Program in
6 Paragraph C 5 below.

8 4. SEWER PIPE INSPECTION AND CONDITION ASSESSMENT

9
10 a. The City shall inspect each sewer pipe that experiences a blockage
11 leading to an SSO using CCTV or other appropriate inspection methods as soon as is practicable
12 but no later than one (1) week following the SSO. Lamping may not be used for purposes of
13 satisfying the obligations of this Paragraph 4.

14
15 b. Having completed CCTV inspection of one thousand two-hundred
16 (1,200) miles of its pipelines, including all but two miles of pipeline in all forty-two (42)
17 canyons, all pipe installed prior to 1965, all trunk sewers prior to 1991, and all high maintenance
18 sites by June 2004, the City shall complete CCTV inspection of at least forty (40) miles of its
19 pipelines each year, focusing on pipelines in high-maintenance areas and ensuring that all pipe
20 over forty (40) years old is inspected by CCTV. The calculation of the 40 miles requirement may
21 not include CCTV inspections done pursuant to Paragraph a. above or Section VII (Compliance
22 Actions) Paragraph C 1.

23
24 c. The City shall inspect all manholes in its collection system every
25 five (5) years, starting from the date this Partial Consent Decree is entered.
26

1 d. The City shall prepare condition assessment reports following
2 CCTV inspections that, at a minimum, document the following:
3 (i) defects that materially threaten the structural integrity of the
4 pipe or structure;
5 (ii) material defects that allow infiltration, inflow, or
6 exfiltration;
7 (iii) material pipe defects, including but not limited to, cracks,
8 holes, corrosion, misaligned joints, root intrusion, sags, improper lateral taps, or other defects
9 that make the pipe or structure prone to grease, root, or debris blockages;
10 (iv) a rank or score of the condition of each inspected pipe or
11 structure on a sliding scale that indicates the severity of any defects found;
12 (v) whether the pipe or structure requires either short or long-
13 term repair under Paragraph 5 below;
14 (vi) changes to cleaning frequency as a result of the assessment;
15 and
16 (vii) an estimate of the expected remaining life of the pipe or
17 structure.
18

19 e. By March 1st of each year, the City shall submit an annual report
20 pursuant to Section VII (Compliance Actions) Paragraph G of this Partial Consent Decree, to
21 EPA for review pursuant to Section VIII (Plan and Report Review and Approval) summarizing
22 the findings of the sewer pipe condition assessments conducted during the previous calendar
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1 year, documenting any past changes in inspection methods, and differentiating between
2 inspections and condition assessments of pipes in canyons and pipes located elsewhere.

3
4 5. SEWER REPAIR, REHABILITATION, AND REPLACEMENT

5 a. The City shall repair all Acute Defects within one (1) year of
6 discovery of the defect. The City shall maintain a log listing all sewer line Acute Defects in need
7 of expeditious repair or replacement, the date the City discovered the Acute Defect, a schedule
8 for performing the repair or replacement, and the date of project completion.

9
10 b. Between January 1, 2002 and December 31, 2005, the City shall
11 replace, rehabilitate, or permanently repair one hundred seventy (170) miles of pipeline.
12 Permanent repair means the correction of a structural defect in a manhole to manhole pipe
13 segment such that the repaired segment has the same life expectancy as a rehabilitated pipe
14 segment. The City shall maintain a log listing each sewer pipe and structure project completed
15 during the previous year and the date the project was completed.

16
17 c. The City shall maintain a rolling ten (10) year CIP.

18 d. By March 1st of each year, the City shall submit an annual report
19 pursuant to Section VII (Compliance Actions) Paragraph G, to EPA for review pursuant to
20 Section VIII (Plan and Report Review and Approval) which describes all Acute Defect and long-
21 term projects completed in the previous year pursuant to this Paragraph, distinguishes between
22 canyon and non-canyon projects, documents all projects referred to programs under other
23 Paragraphs of this Section, and includes copies of the Acute Defect logs for the previous year.
24 Upon request by EPA, the City shall provide EPA with a copy of its full CIP within thirty (30)
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1 days. Nothing in this Paragraph 5 shall require the City to implement any of the projects listed in
2 the CIP not otherwise required hereunder.

3 6. FATS, OILS & GREASE (FOG) BLOCKAGE CONTROL PROGRAM

4
5 a. For at least the duration of this Partial Consent Decree, the City
6 shall implement a Residential Grease Outreach and Education Program consisting of the
7 following elements.

8 (i) The City shall distribute informational FOG postcards to all
9 residents living within a one thousand (1,000) foot radius of each residential grease SSO within
10 ten (10) working days of a SSO;

11 (ii) The City shall prepare and distribute FOG inserts with City
12 water/sewer bills semiannually;

13 (iii) The City shall produce residential grease Public Service
14 Announcements and broadcast them on the City's public access channel at least twice per week;

15 (iv) The City shall prepare and maintain grease education
16 information on the MWWD web site; and

17 (v) The City shall attend the annual Apartment and
18 Condominium Owner's Association convention to publicize its FOG program.

19 b. The City shall implement a program for timely enforcement and
20 inspection follow-up at Food Service Establishments ("FSE"). At a minimum, the City shall:

21 (i) inspect each FSE at least once every two (2) years.
22 Inspection of FSEs maintaining full compliance shall continue on a biannual frequency. Any

1 FSE found to be in violation shall be inspected at least every ninety (90) days until full
2 compliance is demonstrated for a minimum of two (2) ninety (90) day inspection cycles;

3 (ii) issue a formal Notice of Violation to an FSE within two (2)
4 weeks of discovering a violation;

5 (iii) hold administrative hearings within ninety (90) days of the
6 NOV if the FSE fails to comply with the NOV or has had two NOVs within the last year or for
7 the same compliance issue and, if non-compliance continues, hold a Permit Revocation hearing
8 within ninety (90) days of the administrative hearing and, if necessary, terminate water service;

9 (iv) issue compliance schedules, assess fees or penalties, and
10 revoke permits as necessary to ensure compliance;

11 (v) inspect each new and substantially remodeled FSE within
12 four (4) months of the FSE's start up; and

13 (vi) assure adequate budget and staffing to meet the above
14 requirements.

15 c. By March 1st of each year, the City shall submit an annual report
16 pursuant to Section VII (Compliance Actions) Paragraph G of this Partial Consent Decree, to
17 EPA for review pursuant to Section VIII (Plan and Report Review and Approval) documenting
18 the activities carried out under the FOG Blockage Control Program during the previous year.

19 The report shall: (i) include copies of the FSE inspection and enforcement log for the previous
20 year, and (ii) discuss budget and staffing levels for the previous and current years.

1 7. CANYON AREA SSO ELIMINATION

2 a. By no later than March 1, 2009, the City shall complete the
3 Canyon Economic and Environmental Analyses for the forty-two (42) canyons listed below in
4 order to evaluate the feasibility and need to relocate the sewer lines out of canyon bottoms. The
5 economic and environmental analyses shall include both quantitative and qualitative costs and
6 benefits of alternatives, weigh environmental impacts, and address stakeholder and community
7 input. The analyses shall consider the life cycle costs of the alternatives. When estimating the
8 cost to maintain sewer facilities in canyons, the cost of the increased risk of an SSO occurring
9 and the cost of the impacts to the canyon habitat resulting from necessary canyon access and
10 maintenance, as required by Section VII (Compliance Actions) Paragraphs C 1, C 2, C 3, and C 7
11 will be considered. Where the life cycle cost of redirecting flow is less than thirty-five percent
12 (35%) more than the life cycle cost of leaving the flow in place, and where environmental and
13 community interest factors indicate that flow should be redirected in whole or in part, redirection
14 shall be undertaken. Those sewers identified for relocation shall be included in the next update
15 of the City's CIP. Nothing in Section VII (Compliance Actions) of this Partial Consent Decree
16 shall require the City to relocate any sewer.

17 b. The City shall conduct analyses for a minimum of six (6) canyons a
18 year, starting January 1, 2004, for the following canyons, giving priority to those canyons
19 containing pipeline identified as a priority under Section VII (Compliance Actions) Paragraph C
20 4.

1	·	Tecolote
2	·	East Tecolote (East Clairemont)
3	·	Stevenson
4	·	Van Nuys
5	·	San Clemente
6	·	Upper Rose
7	·	Middle Rose
8	·	Lower Rose
9	·	Dakota
10	·	Manning
11	·	Acuña
12	·	Park Mesa
13	·	Bounty & Waring
14	·	Mission Center Road
15	·	Lake Murray
16	·	Adobe Falls
17	·	Mission Gorge (Junipero Serra)
18	·	Chollas Creek
19	·	Chocolate (Home Avenue)
20	·	Switzer
21	·	Carroll (Rock Quarry)
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- 1 · Alvarado
- 2 · Sorrento/Flintkote
- 3 · Roselle/Sonico
- 4 · Lopez
- 5 · Peñasquitos
- 6 · Peñasquitos Bluffs
- 7 · Rose Creek East of I-805
- 8 · Mesa College and I-805 (Onalaska)
- 9 · Black Mountain
- 10 · Shawn
- 11 · Shepherd (Santo Road)
- 12 · Woodman
- 13 · Lexington
- 14 · Washington Creek
- 15 · Highway 163 Corridor
- 16 · El Camino Real/San Dieguito Road
- 17 · Florida
- 18 · Sevan Court
- 19 · Skylark
- 20 · Rancho Mission
- 21 · 45th & Boston

1 If more than six (6) Canyon Economic and Environmental Analyses are completed in one
2 (1) year, the City may hold these analyses in reserve to be applied, if needed, against the
3 requirement to complete six (6) analyses per year in any future year.
4

5 c. The City shall implement the following minimum measures:

6 (i) The City shall conduct an annual visual exterior inspection
7 of each canyon area trunk sewer, including examination of each maintenance hole structure for
8 structural integrity, examination of any exposed sewer pipes, and observation of any condition in
9 the canyon area that could pose a threat to pipes or maintenance hole structures. The City shall
10 assess the environmental and other external physical factors that may lead to a structural failure.
11 Annual inspections shall include such factors as erosion, landslides, flooding, excessive plant
12 growth, and any circumstances that could affect pipe or maintenance hole structural integrity.
13

14 (ii) During each annual inspection of canyon trunk sewers
15 required by Subparagraph (i) above, the City shall identify all potentially vulnerable sections of
16 canyon pipelines.
17

18 (iii) The City shall visually inspect all potentially vulnerable
19 sections of canyon pipelines within one (1) week of every significant rainfall (over .5" within a
20 twenty-four (24) hour period).
21

22 (iv) The City shall conduct cleaning and annual maintenance of
23 each canyon area sewer pipe and maintenance hole structure, including, but not limited to,
24 control of erosion that may undermine sewer pipes or maintenance hole structures, diversion of
25 channels when necessary to protect the infrastructure, rebuilding of deteriorated maintenance
26

1 hole structures, and the securing of maintenance hole covers to prevent vandalism as specified in
2 Section VII (Compliance Actions) Paragraph C 9b.

3 (v) The City shall obtain short and long-term access to each
4 canyon area sewer pipe sufficient to allow for the cleaning and annual inspection of such pipes as
5 required by this Partial Consent Decree.
6

7 d. By March 1st of each year the City shall submit an annual report to
8 EPA for review pursuant to Section VII (Compliance Actions) Paragraph G of this Partial
9 Consent Decree, documenting which canyon sewers were cleaned and/or inspected during the
10 previous calendar year, listing all potentially vulnerable sections of canyon pipelines identified in
11 Subparagraph c.(ii) above, describing the plans the City intends to undertake for the then current
12 year, summarizing and including the sewer relocation economic and environmental analyses
13 completed in the previous calendar year, and listing those canyons for which economic and
14 environmental analyses will be done in the current year.
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17 8. PUMP STATION AND FORCE MAIN SSO REDUCTION ACTION
18 PROGRAM

19 a. The City shall complete the following projects by the dates
20 specified below:
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PUMP STATIONS WITH IMPROVEMENTS UNDER DESIGN AND CONSTRUCTION:

Pump Station No.	Construction Completion Date	Description of Work
77A	July 2005	Major mechanical & electrical upgrades (replace and upsize pumps and motors; replace flow meters; add A/C to VFD room, add alarms, automatic transfer switch, and all necessary new SCADA control systems); structural modification of facility
28, 29, 45	June 2005	Build a new PS 45 that accommodates flows from PS's 28, 29 & 45, then demolish old PS's
19	Apr 2005	Build a new PS to code (properly sized wetwell, odor control, on-site generator, SCADA controls and alarms, and dual force mains) then demolish old one
50	May 2005	Mechanical & electrical upgrades ^(a) ; add dual force mains, low flow diversion valves and related SCADA controls
27	Jun 2005	Add dual force mains, storage tank ^(b) and SCADA controls
49	Oct 2005	Add new wetwell, dual force mains, odor control and SCADA controls; repair existing wetwell to be used as a storage tank ^(b) ; mechanical & electrical upgrades ^(a)
39	Oct 2005	Mechanical & electrical upgrades ^(a) ; add storage tank ^(b) , dual force mains, on-site generator, odor control and SCADA controls
(a) Mechanical and Electrical Upgrades may include one or more of the following: replace pumps and motors, upgrade or add ventilation systems, add alarms, upgrade or add a sump pump, add remote control ability for certain functions (i.e., the on-site generator), and all related electrical work for the new mechanical work.		
(b) All storage tanks have a minimum of two (2) hours capacity during peak wet weather flow conditions.		

b. By March 1st of each year the City shall submit an annual report pursuant to Section VII (Compliance Actions) Paragraph G of this Partial Consent Decree, to EPA for review pursuant to Section VII (Plan and Report Review and Approval), documenting the City's

1 progress in the projects during the previous year.

2 9. PROGRAM TO ADDRESS OTHER CAUSES OF SSOS

3
4 a. Upon entry of this Partial Consent Decree, the City shall require all
5 Contractors working under a new construction contract to have an approved SSO response plan
6 prior to initiating work if the construction work is to occur within a public right-of-way or sewer
7 easement. All City construction contracts must contain provisions that allow the City to impose
8 penalties and/or cleanup costs on any Contractor whose activities, or failure to act, result in an
9 SSO or other violation of this Partial Consent Decree.
10

11 b. The City shall secure at least six hundred (600) manhole covers in remote
12 areas each year with all five thousand eight hundred (5,800) +/- covers to be secured prior to
13 termination of this Partial Consent Decree. If more than 600 manhole covers in remote areas are
14 secured in one (1) year, the City may hold these secured covers in reserve to be applied, if
15 needed, against the requirement to secure 600 manhole covers per year in any future year.
16

17 c. The City shall conduct a Public Outreach Program to educate the public
18 about vandalism.
19

20 d. By March 1st of each year the City shall submit an annual report pursuant
21 to Section VII (Compliance Actions) Paragraph G of this Partial Consent Decree, to EPA for
22 review pursuant to Section VIII (Plan and Report Review and Approval), documenting the
23 activities carried out under this program, summarizing the SSOs caused by Contractors or
24 vandalism, and distinguishing between SSOs in canyon and non-canyon areas.
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1 D. COLLECTION SYSTEM CAPACITY ASSESSMENT AND ASSURANCE

2 1. Capacity Assessment

3 a. The City shall continue to use the dynamic model developed as required
4 by the U.S.A. v. City of San Diego, Case No. 88-1101-B, Stipulated Final Order for Injunctive
5 Relief, to analyze the hydraulic capacity of all trunk sewers 15 inch in diameter or greater. The
6 City will ensure that system capacity is sufficient and will continue to collect flow monitoring
7 data in both dry and wet weather and perform a dynamic modeling analysis for all of the City's
8 trunk sewers. The City will add thirteen (13) new permanent flow meters on trunk sewers fifteen
9 (15) inches in diameter or greater by December 31, 2005, at an additional cost of approximately
10 \$1.3 million. Combining the existing and additional flow meters, the total monitoring coverage
11 in flow weighted length shall exceed ninety percent (90%). The data from this additional
12 metering will be incorporated into the criticality assessment for the trunk sewers. The modeling
13 analysis shall include trunk-by-trunk model calibrations based on dry weather flow monitoring
14 data and model simulations for the present, future (5-10 years), and wet weather scenarios. By
15 July 31, 2006, the City shall submit a Trunk Sewer Capacity Assessment Report documenting the
16 findings of the above mentioned modeling analysis. The report shall prioritize the trunk sewers
17 as either critical, semi-critical, or non-critical, according to the flow monitoring and modeling
18 results. The City shall update the Trunk Sewer Capacity Assessment Report on an annual basis,
19 considering new flow trends, changes in the sewer system, and other modifications. The report
20 and/or updates shall be provided to Plaintiffs annually.

21 b. THIS PARAGRAPH IS RESERVED FOR FUTURE USE.

2. Capacity Assurance Program

The City shall implement and complete the following capacity improvement projects on the schedule below:

TRUNK SEWERS

Trunk	Trunk Name	Construction Completion Date
28	Lexington Canyon	March 2006
47	Carmel Valley	March 2006

As a result of the ongoing capacity assessment, the City shall describe any proposed schedule or project changes/additions it seeks to make to this Paragraph with a justification and seek EPA's approval under Section VIII (Plan and Report Review and Approval) Paragraphs A and B of this Partial Consent Decree.

3. By March 1st of each year the City shall submit an annual report pursuant to Section VII (Compliance Actions) Paragraph G of this Partial Consent Decree, to EPA for review pursuant to Section VIII (Plan and Report Review and Approval), detailing at a minimum, the upgrades made during the previous year and the effectiveness of those upgrades at eliminating SSOs.

E. THIS PARAGRAPH IS RESERVED FOR FUTURE USE.

F. OTHER SSO REQUIREMENTS: The City shall substantially reduce the frequency and volume of SSOs.

G. ANNUAL PROGRESS REPORT:

1. By March 1st of each year this Partial Consent Decree remains in effect,

1 the City shall submit an annual progress report to EPA, with copies to Baykeeper and Surfrider.

2 This report (or parts thereof) shall be reviewed and, where so provided, approved or disapproved
3 following the process in Section VIII (Plan and Report Review and Approval) Paragraphs A - D
4 of this Partial Consent Decree.
5

6 2. The report shall:

7 a. include the specific annual reporting requirements set forth in
8 Paragraphs B through D above;
9

10 b. provide other details relevant to the City's implementation of, and
11 compliance with, this Partial Consent Decree during the preceding year, including any program
12 modifications during the prior calendar year;
13

14 c. assess the City's progress towards meeting the requirements of this
15 Partial Consent Decree program-by-program and overall;

16 d. report the volume, number, and location of SSBs;

17 e. report the volume, number, and location of SSOs, with the
18 exception of SSBs reported under Subparagraph d. above, and compare the volume, number, and
19 location of the SSOs reported under this Subparagraph to SSOs occurring since 1997; and
20

21 f. propose new or modified plans in any area where the City has
22 materially failed to comply with the requirements of this Partial Consent Decree. The plan shall
23 identify the material impact of the proposed changes on other obligations in this Section VII
24 (Compliance Actions) of this Partial Consent Decree. Nothing in this Paragraph shall require the
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1 City to perform any work not otherwise required in Section VII (Compliance Actions).

2 3. THIS PARAGRAPH IS RESERVED FOR FUTURE USE.

3 4 H. QUARTERLY SSO REPORTS

5 On the first day of February, May, August, and November in each calendar year in
6 which activities are conducted pursuant to this Partial Consent Decree, the City shall submit a
7 summary of all SSOs occurring during the previous calendar quarter to EPA, with copies to
8 Baykeeper and Surfrider, along with the primary factors contributing to the SSOs if known. The
9 reports shall:

- 10 1. indicate which SSOs occurred in canyons;
11 2. indicate whether SSOs entered waters of the United States and, if so,
12 whether they entered via storm drains or other man-made conveyances; and
13 3. differentiate between SSBs and all other SSOs.

14 15 I. OTHER REPORTS

16 17 Upon the request of a Plaintiff, the City shall provide any information required by
18 this Partial Consent Decree or relevant to implementation or compliance with any provision of
19 this Partial Consent Decree.
20

21 22 J. PACIFIC BEACH POINT STUDY

23 By a date to be agreed upon in a separate Memorandum of Understanding
24 ("MOU") among the City, Baykeeper and Surfrider, the City will complete a study of Pacific
25 Beach Point to:
26

1. seek to identify the sources, if any, of bacteriological contamination; and
2. develop recommendations to remedy the sources identified, if any. This study shall not exceed a cost of \$250,000, and the final report shall be furnished to Baykeeper, Surfrider, and EPA. Nothing contained in this section shall require the City to perform any work or remediation recommended in said study.

VIII. PLAN AND REPORT REVIEW AND APPROVAL

A. The submittal of any plan or report required by this Partial Consent Decree shall be subject to EPA's review and/or approval as specified in Section VII (Compliance Actions) and Paragraphs B - D below. Copies of all such plans and reports and follow-up correspondence shall be provided simultaneously to Citizen Plaintiffs. The City shall respond to reasonable requests for additional documentation by Citizen Plaintiffs.

B. For new or modified plans submitted under Section VII (Compliance Actions) Paragraph G 2f.:

1. EPA shall:
 - a. approve the submission or request in whole or in part;
 - b. approve the submission or request with specified conditions;
 - c. modify the submission or request to cure any deficiency;
 - d.. disapprove the submission or request in whole or in part, directing the City to correct any deficiency; or
 - e. any combination of the above.

1 2. Citizen Plaintiffs shall submit any written comments to EPA and the City
2 within thirty (30) days of the City's submission.

3 3. EPA shall use its best efforts to take the actions in Paragraph 1 above
4 within ninety (90) days of receipt of the City's submission. If EPA does not take action by the
5 end of the ninety (90) days, the City's submission shall be deemed disapproved.

6 4. The City shall revise the plan or report to correct any deficiency identified
7 by EPA within sixty (60) days of receipt of EPA's action, unless the time is extended by mutual
8 agreement of EPA and the City.

9 5. In the event that a revised submission is disapproved in whole or in part,
10 EPA may again require the City to correct the deficiencies. The City shall take the action
11 specified by EPA within sixty (60) days, subject only to its right to invoke dispute resolution
12 under Section IX (Dispute Resolution) of this Partial Consent Decree. The sixty (60) days may
13 be extended by mutual agreement of the EPA and the City up to an additional sixty (60) days.
14 Nothing in this Paragraph shall require the City to perform any work not otherwise required by
15 Section VII (Compliance Actions).

16 6. Within thirty (30) days, Citizen Plaintiffs may challenge an EPA action
17 approving a major modification of the activities required in Section VII (Compliance Actions) by
18 invoking Dispute Resolution under Section IX (Dispute Resolution) of this Partial Consent
19 Decree. The thirty (30) days may be extended by mutual agreement of the Parties.

20 C. For reports requiring EPA review but not approval, EPA shall use its best efforts
21 to complete its review within one hundred twenty (120) days of receipt of the City's submission.
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1 If, upon review, EPA determines that the City is failing to comply with Section VII (Compliance
2 Actions) Paragraphs B - D of this Partial Consent Decree, EPA shall notify the City to submit a
3 plan to address the deficiencies, following the process described in Paragraph B above. Nothing
4 in this Paragraph shall require the City to perform any work not otherwise required in Section VII
5 (Compliance Actions).
6

7 D. THIS PARAGRAPH IS RESERVED FOR FUTURE USE.

8
9 E. Upon EPA's approval of the submissions, any changes that supercede existing
10 requirements in Section VII (Compliance Actions) Paragraphs B - D of this Partial Consent
11 Decree shall be incorporated by reference as enforceable parts of this Partial Consent Decree.
12

13 **IX. DISPUTE RESOLUTION**

14 A. Unless otherwise expressly provided for in this Partial Consent Decree, the
15 dispute resolution procedures of this Section shall be the exclusive mechanism to resolve
16 disputes arising under or with respect to this Partial Consent Decree. However, the procedures
17 set forth in this Section shall not apply to:
18

19 1. actions by the United States to enforce obligations of the City that have not
20 been disputed in accordance with this Section; or

21 2. any disputes concerning the issuance, modification, revocation, or
22 reissuance of NPDES permits.
23

24 3. THIS PARAGRAPH IS RESERVED FOR FUTURE USE.

25 B. A dispute shall be considered to have arisen when one (1) party sends the other
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1 party a written Notice of Dispute. As used in this Paragraph, parties shall refer to the Chief,
2 CWA Compliance Office, Water Division, EPA Region 9, for the United States, the Director of
3 the Metropolitan Wastewater Department for the City, and the attorneys for Citizen Plaintiffs.

4
5 Any dispute that arises under or with respect to this Partial Consent Decree shall in the first
6 instance be the subject of informal negotiations between the parties to the dispute. During the
7 informal negotiations the EPA shall identify the reasons for the non-approval. The period for
8 informal negotiations shall not exceed thirty (30) days from the time the dispute arises, unless it
9 is modified by written agreement of the parties.
10

11 C. 1. In the event that the Parties cannot resolve a dispute by informal
12 negotiations under the preceding Paragraph B, the City or Citizen Plaintiffs may invoke formal
13 dispute resolution procedures by providing the Director with a written statement of position on
14 the matter in dispute, including, but not limited to, any factual data, analysis or opinion
15 supporting that position and any supporting documentation relied upon by the City or Citizen
16 Plaintiffs. Such statement of position shall be provided within thirty (30) days of the end of
17 informal negotiations. If the City or Citizen Plaintiffs do not invoke formal dispute resolution
18 within thirty (30) days, EPA's position shall be binding on the City and Citizen Plaintiffs.
19
20

21 2. Within thirty (30) days after receipt of a City's or Citizen Plaintiffs'
22 statement of position, the Director shall provide a written Response to the City's or Citizen
23 Plaintiffs' statement of position, including, but not limited to, any factual data, analysis, or
24 opinion supporting that position and all supporting documentation relied upon by EPA. That
25 position shall be considered binding and the City and Citizen Plaintiffs shall waive any right to
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1 challenge that position unless, within thirty (30) days after receipt of the Director's decision, the
2 City or Citizen Plaintiffs file and serve upon the United States a motion for judicial review of the
3 decision. The motion shall include a description of the matter in dispute, the efforts made by the
4 Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must
5 be resolved to ensure orderly implementation of this Partial Consent Decree. The schedules
6 contained in the local rules for the United States District Court shall apply to the dispute;
7 provided, however, the United States shall have at least thirty (30) days to file a response with an
8 alternative proposal for resolution.
9
10

11 3. In proceedings on any dispute governed by this Section, the moving party
12 shall have the burden by a preponderance of the evidence to prevail in the dispute regarding
13 EPA's decision; provided, however, the City shall be considered the moving party with respect to
14 Section VII (Compliance Actions); Section VIII (Plan and Report Review and Approval);
15 Section XI (Stipulated Penalties); and Section XXIV (Termination).
16

17 D. The invocation of formal dispute resolution procedures under this Section shall
18 not extend, postpone, or affect in any way any obligation of the City under this Partial Consent
19 Decree, not directly in dispute unless and until final resolution of the dispute so provides.
20 Stipulated penalties with respect to the disputed matter shall continue to accrue; provided,
21 however, that the City may argue to the Court that stipulated penalties should not run after the
22 matter has been fully briefed and submitted to the Court and provided that Plaintiffs may argue
23 the contrary. Payment shall be stayed pending resolution of the dispute. Except as provided
24 above, stipulated penalties shall accrue from the first day of non-compliance with any applicable
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1 provision of this Partial Consent Decree. In the event that the City does not prevail on the
2 disputed issue, stipulated penalties may be assessed as provided in Section XI (Stipulated
3 Penalties) of this Partial Consent Decree.
4

5 E. Citizen Plaintiffs have the right to invoke Dispute Resolution pursuant to this
6 Section IX (Dispute Resolution) in the following circumstances:

7 1. Citizen Plaintiffs may challenge an EPA action approving a major
8 modification of the activities required in Section VII (Compliance Actions). The Citizen
9 Plaintiffs retain the right to dispute what constitutes a major modification. For purposes of
10 establishing what constitutes a major modification under this Subparagraph, Citizen Plaintiffs
11 shall have the burden of establishing the same based upon the arbitrary and capricious standard
12 of proof.
13
14

15 2. Citizen Plaintiffs may challenge an EPA action terminating the Partial
16 Consent Decree pursuant to Section XXIV (Termination).

17 3. With respect to any motion under this Section, the Citizen Plaintiffs shall
18 be considered the moving party.
19

20 **X. FORCE MAJEURE**

21 A. "Force majeure," for purposes of this Partial Consent Decree, is defined as any
22 event arising from causes beyond the control of the City, of any entity controlled by the City, or
23 of the Contractors, that delays or prevents the performance of any obligation under this Partial
24 Consent Decree, despite the City's best efforts to fulfill the obligation. The requirement that the
25 City exercise "best efforts to fulfill the obligation" includes using reasonable efforts to anticipate
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1 any potential force majeure event and best efforts to address the effects of any potential force
2 majeure event as it is occurring and following the potential force majeure event, such that the
3 delay is minimized to the greatest extent possible. "Force Majeure" shall not, in any event,
4 include unanticipated or increased costs associated with implementation of this Partial Consent
5 Decree, changed financial circumstances, or other financial or budgetary issues.

7 B. If any event occurs or has occurred that may delay the completion of any
8 requirement of this Partial Consent Decree, whether or not caused by a force majeure event, the
9 City shall notify EPA in writing, with copies to Baykeeper and Surfrider, within thirty (30) days
10 of when the City first knew, or in the exercise of reasonable diligence under the circumstances,
11 should have known of such event. The notice shall indicate whether the City claims that the
12 delay should be excused as a force majeure event. The notice shall describe in detail the basis for
13 the City's contention that it experienced a force majeure delay; the anticipated duration of the
14 delay; the precise cause or causes of the delay; all actions taken or to be taken to prevent or
15 minimize the delay; and a schedule for implementation of any measures to be taken to prevent or
16 mitigate the delay or the effect of the delay. The City shall adopt all reasonable measures to
17 avoid and minimize such delays. Failure to comply with the above requirements shall preclude
18 the City from asserting any claim of force majeure. The City shall be deemed to know of any
19 circumstance of which the City, any entity controlled by the City, or the Contractors knew or
20 should have known.

24 C. If EPA agrees that the delay or anticipated delay is attributable to a force majeure
25 event, the time for performance of the obligations under this Partial Consent Decree that are
26

1 affected by the force majeure event will be extended by EPA in writing for such time as is
2 necessary to complete those obligations and stipulated penalties shall not be due for such period.
3 If EPA does not agree that the delay or anticipated delay has been or will be caused by a force
4 majeure event, EPA will notify the City in writing of its decision. If the City elects to invoke the
5 Dispute Resolution procedures set forth in Section IX (Dispute Resolution) of this Partial
6 Consent Decree, it shall do so no later than thirty (30) days after receipt of EPA's notice. In any
7 such proceeding, the City shall have the burden of demonstrating by a preponderance of the
8 evidence that the delay or anticipated delay has been or will be caused by a force majeure event,
9 and that the duration of the delay or the extension sought was or will be warranted under the
10 circumstances. Copies of all documents under this Subparagraph shall be provided to Baykeeper
11 and Surfrider.
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15 D. An extension of the time for performance of the obligations the City contends are
16 affected by the force majeure event shall not, of itself, extend the time for performance of any
17 other obligation. The City must make an individual showing of proof regarding each delayed
18 incremental step or other requirement for which an extension is sought.
19

20 **XI. STIPULATED PENALTIES**

21 A. The City shall pay the stipulated penalties listed below upon written demand by
22 the United States. Pursuant to its non-reviewable enforcement discretion, the United States may
23 waive or reduce stipulated penalties. EPA need not provide a Notice of Violation prior to
24 assessing stipulated penalties. A copy of the demand shall be provided to Baykeeper and
25 Surfrider.
26
27
28

1 B. COMPLIANCE MILESTONES

2 The City shall pay stipulated penalties for each failure to implement, achieve, or
3 complete a requirement identified in Section VII (Compliance Actions) Paragraphs B - D of this
4 Partial Consent Decree as follows:
5

<u>Period of Noncompliance</u>	<u>Penalty per Milestone Date per Day of Violation</u>
Days 1 - 14	\$750
Days 15 - 28	\$1,500
Days over 28	\$3,000

11 C. REPORTING AND PLAN SUBMISSION

12 The City shall pay the stipulated penalties below for each day it fails to submit or
13 revise a report or plan required by this Partial Consent Decree.
14

<u>Period of Noncompliance</u>	<u>Penalty per Report/Plan per day of Violation</u>
Days 1 - 14	\$375
Days 15 - 28	\$750
Days over 28	\$1,500

21 D. SANITARY SEWER OVERFLOWS

22 1. Except as provided in Paragraph E below, the stipulated penalties set forth
23 in this Paragraph apply to any SSO over one thousand (1,000) gallons if any portion of that spill
24 reaches navigable waters. The stipulated penalties set forth in this Paragraph apply to those
25 SSOs that occur after the entry of the Partial Consent Decree. Gallons refer to the total size of
26

1 the overflow, spill, or release. Successive SSOs refer to the same part or reach of sewer line
2 (from manhole to manhole or from manhole to pump station), the same manhole, or the same
3 pump station under similar circumstances. The City shall provide notice of the SSO to EPA:
4

- 5 a. when required by law to be reported to the Board and/or EPA; and
- 6 b. when required by the reports under Section VII (Compliance
7 Actions) of this Partial Consent Decree.

8
9 2. EPA may assess penalties as provided below:

10 a. Over one thousand (1000) and up to ten thousand (10,000) gallons

- 11 (i) First successive SSO \$ 2,000
- 12 (i) Second successive SSO \$ 5,000
- 13 (iii) Third successive SSO \$ 7,500
- 14 (iv) Fourth and subsequent
15 successive SSOs \$10,000

16
17 b. More than 10,000 gallons

- 18 (i) First successive SSO \$ 4,000
- 19 (ii) Second successive SSO \$10,000
- 20 (iii) Third successive SSO \$15,000
- 21 (iv) Fourth and subsequent
22 successive SSOs \$20,000

23
24
25 If the City does not reasonably estimate the size of a SSO, the SSO will be presumed to
26

1 be more than ten thousand (10,000) gallons for the purpose of determining stipulated penalties.

2 E. OTHER PROVISIONS:

3
4 1. The City shall not be liable for stipulated penalties under Paragraph D
5 above if the City demonstrates that it has complied with both the response and reporting
6 requirements in Section VII (Compliance Actions) Paragraphs B 1 - 4, and Paragraphs C 1b.; C
7 2a.; C 3a.-b.; C 4a.-d., C 5a.-b.; C 6b. (i-v); C 7a.; C 7c.(i-iv); C 8a.; C 9b.; and D 2.

8
9 2. The City shall not be liable for stipulated penalties under Paragraph D
10 above if the City demonstrates that the SSO was caused by an Act of God, vandalism, a non-City
11 Contractor, or any act of a third party not working directly or indirectly on behalf of the City.

12
13 3. The City shall not be liable for stipulated penalties under Paragraph D
14 above for any SSO downstream of the Marine Corps Air Station Miramar that was caused by the
15 Marine Corps Air Station Miramar; provided however, this exception applies only if the City
16 utilizes best efforts to reach an agreement with Marine Corps Air Station Miramar to address the
17 potential for SSOs.

18
19 4. Payment of stipulated penalties as provided in this Section shall be in
20 addition to any other rights or remedies, including statutory penalties, which may be available to
21 the United States by reason of the City's failure to comply with this Partial Consent Decree and
22 all applicable federal, state, or local laws, regulations, wastewater discharge permits, and all other
23 applicable permits.

24
25 5. The United States will credit the City for any stipulated penalty paid with
26
27
28

1 respect to any SSO pursuant to this Partial Consent Decree in any future enforcement action in
2 which EPA seeks penalties for that SSO. The United States will credit the City against any
3 stipulated penalty assessed pursuant to this Partial Consent Decree with respect to any EPA
4 enforcement action in which penalties were paid for that SSO.
5

6 6. In exercising its discretion of whether to assess a stipulated penalty for an
7 SSO, the United States will consider the amount of sewage recovered.
8

9 7. In exercising its discretion of whether to assess a stipulated penalty for an
10 SSO, the United States will consider the length of time after which a disputed issue has been
11 fully briefed and is under the consideration of the United States District Court pursuant to
12 Section IX (Dispute Resolution) of this Partial Consent Decree.
13

14 8. SSBs shall not be subject to stipulated penalties under this Partial Consent
15 Decree.
16

17 **XII. PAYMENTS**

18 The City shall pay stipulated penalties owing to the United States by certified or cashier's
19 check in the amount payable to the "United States Department of Justice" referencing "DOJ No.
20 90-5-1-1-4364/1" and United States Attorney's file number (to be provided), and delivered to the
21 office of the United States Attorney, Southern District of California, 880 Front Street, Room
22 6293, San Diego, California, 92101. In the event that any payments are not received when due,
23 interest shall continue to accrue on the unpaid balance through the date of payment at the rate
24 established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961.
25
26
27
28

1 **XIII. RIGHT OF ENTRY**

2 A. EPA, their employees, and authorized agents (including contractors and
3 subcontractors) upon presentation of valid credentials or other official authorization, shall have
4 access to enter the City's publicly-owned treatment works for the purposes of monitoring,
5 investigating, and/or verifying the City's compliance with all terms of this Partial Consent
6 Decree. Where appropriate, EPA shall provide reasonable notice to the City.
7

8 B. Nothing in this Section shall be construed to limit the right of the United States to
9 enter the City's property, to require monitoring, or to obtain information pursuant to federal or
10 state law or regulation.
11

12 **XIV. NOT A PERMIT**

13
14 This Partial Consent Decree is neither a permit nor a modification of existing permits
15 under any federal, state, or local law and in no way relieves the City of its responsibilities to
16 comply with all applicable federal, state, and local laws, and regulations.
17

18 **XV. ONGOING COMPLIANCE RESPONSIBILITIES**

19 A. This Partial Consent Decree does not relieve the City of any obligation to apply
20 for, obtain and comply with the requirements of any new or existing NPDES permit or its duty to
21 comply with the CWA and any other applicable federal and state laws, regulations, and permits.
22

23 B. The United States, by its consent to the entry of this Partial Consent Decree, does
24 not warrant or aver in any manner that the City's compliance with this Partial Consent Decree
25 will result in compliance with the provisions of the CWA or with any NPDES permit.
26

1 C. Notwithstanding review or approval by the United States of any plans, reports,
2 policies, or procedures formulated pursuant to this Partial Consent Decree, the City shall remain
3 solely responsible for any non-compliance with the terms of this Partial Consent Decree, all
4 applicable permits, the CWA, and regulations promulgated thereunder.
5

6 **XVI. EFFECT OF SETTLEMENT**

7 A. This Partial Consent Decree resolves claims for civil penalties for spills occurring
8 on or before October 1, 2004, unless any one of the following events occur:
9

10 1. The Final Consent Decree is not lodged with the United States District
11 Court by June 30, 2006; or

12 2. The District Court does not enter or declines to enter the Final Consent
13 Decree; or
14

15 3. The District Court lifts the stay of litigation in the instant case or otherwise
16 allows litigation to proceed; or
17

18 4. The City responds to the United States' Complaint in the instant litigation.

19 This Partial Consent Decree does not limit or resolve any civil claims relating to the
20 United States' ability to seek injunctive relief.
21

22 B. This Partial Consent Decree does not limit or affect the rights of Defendant or of
23 the United States against any third parties, not party to this Partial Consent Decree, nor does it
24 limit the rights of third parties, not parties to this Partial Consent Decree, against the City, except
25 as otherwise provided by law. This Partial Consent Decree shall not be construed to create rights
26
27
28

1 in, or grant any cause of action to, any third parties not parties to this Partial Consent Decree.

2 C. The United States reserves all legal and equitable remedies available to enforce
3 the provisions of this Partial Consent Decree, except as expressly stated herein. This Partial
4 Consent Decree shall not be construed to limit the rights of the United States to obtain penalties
5 or injunctive relief under the Act or the implementing regulations, or under other federal laws,
6 regulations or permit conditions, except as expressly specified in Subparagraph A of this Section
7 XVI (Effect of Settlement). The United States further reserves all legal and equitable remedies,
8 including but not limited to injunctive relief, to address any imminent and substantial
9 endangerment to the public health or welfare or the environment. The United States reserves the
10 right to raise and the City reserves the right to contest the factual circumstances of past spills and
11 the City's past and future operations relating to the Collection System in any future enforcement
12 action for violations not addressed in this Partial Consent Decree.
13
14
15

16 D. This Partial Consent Decree shall be considered "diligent prosecution" for
17 purposes of Section 1319(G)(6) of the CWA.
18

19 **XVII. RESERVATION BY BAYKEEPER AND SURFRIDER**

20 Baykeeper and Surfrider may submit comments to EPA regarding the City's annual report
21 or the City's request for a major modification to this Partial Consent Decree. Comments must be
22 submitted within thirty (30) days of EPA's receipt of the City's annual report or the City's
23 request for a major modification of the Partial Consent Decree.
24

25 **XVIII. NO ADMISSION OF LIABILITY**

26 Neither the execution of this Partial Consent Decree nor any action taken hereunder is an
27
28

admission of any fact, liability, or wrongdoing of any kind regarding any of the matters addressed in the Partial Consent Decree.

XIX. CERTIFICATION OF SUBMISSIONS/RECORD RETENTION

A. Any notice, report, certification, data presentation, or other document submitted by the City pursuant to this Partial Consent Decree, which discusses, describes, demonstrates, or supports any finding or makes any representation concerning the City's compliance or non-compliance with any requirement(s) of this Partial Consent Decree, shall contain the following certification by the City, signed by a responsible City official:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted, based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Signature

Title

B. The notice and reporting requirements contained in this Partial Consent Decree do not relieve the City of its obligations to submit any other reports or information required by applicable law. Notice of a violation does not excuse the violation. Any information provided under the reporting requirements of this Partial Consent Decree may be admissible evidence in any proceeding to enforce the provisions of this Partial Consent Decree or the applicable law.

1 **XX. FORM OF NOTICE**

2 A. Unless otherwise specified, or as may be changed from time to time, all reports,
3 notices, or any other written communications required to be submitted under this Partial Consent
4 Decree shall be sent to the respective Parties at the following addresses:
5

6 As to the City:

7 City Attorney
8 City of San Diego
9 1200 Third Avenue, Suite 1100
10 San Diego, California 92101

11 As to Surfrider and Baykeeper:

12 Executive Director
13 Surfrider Foundation
14 P.O. Box 6010
15 San Clemente, California 92674-6010

16 Surfrider Foundation
17 San Diego County Chapter
18 P.O. Box 1511
19 Solana Beach, California 92075

20 San Diego Baykeeper
21 2924 Emerson Street, Suite 220
22 San Diego, California 92106

23 Rory Wicks
24 Marco A. Gonzalez
25 Coast Law Group LLP
26 169 Saxony Road, Suite 201
27 Encinitas, California 92024
28

1 Daniel Cooper
2 Lawyers for Clean Water
3 1004 A O'Reilly Street
4 San Francisco, California 94129

5 As to the United States
6 Section Chief
7 Environmental Enforcement Section
8 Environment & Natural Resources Division
9 United States Department of Justice
10 P.O. Box 7611
11 Washington, D.C. 20044-7611

12 Gail Cooper, RC-2
13 Air, Toxics, Water, and General Law Group
14 Office of Regional Counsel
15 U.S. Environmental Protection Agency
16 75 Hawthorne Street
17 San Francisco, California 94105

18 Jo Ann Cola, WTR-7
19 Water Management Division
20 U.S. Environmental Protection Agency
21 75 Hawthorne Street
22 San Francisco, California 94105

23 B. Notifications of communications shall be deemed submitted on the date they are
24 postmarked and sent by certified mail, return receipt requested, or deposited with an overnight
25 mail/delivery service.

26 **XXI. COSTS OF SUIT/COMPLIANCE MONITORING**

27 A. The City will pay Baykeeper and Surfrider \$10,000 for compliance oversight.
28 Payment under this Section shall be made within thirty (30) days of receipt of a properly

1 documented invoice showing the nature of the oversight, time expended, and the charge per hour.
2 Such payments shall not exceed the total listed herein during the period of this Partial Consent
3 Decree.

4
5 B. In the event Baykeeper or Surfrider prevail in demonstrating that the City is not in
6 compliance with the Partial Consent Decree, Baykeeper or Surfrider may be entitled to recover
7 fees consistent with Section 1365 of the CWA.

8
9 C. Upon execution of a Final Consent Decree, Baykeeper and Surfrider may be
10 eligible for reasonable attorneys' fees. So long as the Final Consent Decree is in substantially the
11 same form as this Partial Consent Decree except for the addition of CIP projects as required and
12 is lodged on or before June 30, 2006, Baykeeper and Surfrider agree that total attorneys' fees and
13 costs shall not exceed a total of \$500,000.

14
15 D. Within thirty (30) days of entry of this Partial Consent Decree, the City shall pay
16 Baykeeper and Surfrider \$110,000 as an advanced payment of the total attorneys' fees and costs
17 for which Baykeeper and Surfrider may be eligible. Any payment by the City of San Diego
18 herein shall be a credit toward any subsequent award or agreement on fees and costs and shall be
19 specifically included in the not to exceed amount in subparagraph C. above.

20 **XXII. MODIFICATION**

21
22 This Partial Consent Decree contains the entire agreement of the Parties.

23 A. Any material modification to this Partial Consent Decree must be with the written
24 agreement of the Parties and approval by the Court, except as provided herein.

25
26 B. Notwithstanding Paragraph A above, EPA and the City can agree in writing and
27 without Court approval to make non-material modifications to the requirements of this Partial

1 Consent Decree. Baykeeper and Surfrider shall receive copies of any such modifications.

2 C. Notwithstanding any provision of this Partial Consent Decree, the City may seek
3 modification of this Partial Consent Decree pursuant to Rule 60(b) of the Federal Rules of Civil
4 Procedure.
5

6 **XXIII. CONTINUING JURISDICTION OF THE COURT**

7 The Court shall retain jurisdiction to enforce the terms and conditions of this Partial
8 Consent Decree and to resolve disputes that may arise under this Partial Consent Decree to the
9 extent that this Partial Consent Decree provides for resolution of disputes by the Court.
10

11 **XXIV. TERMINATION**

12 A. This Partial Consent Decree shall terminate on June 30, 2006, provided that the
13 City has certified to EPA with appropriate documentation that the City has complied with all of
14 its obligations under this Partial Consent Decree and paid any penalties, fees and interest due
15 under Section XI (Stipulated Penalties). To the extent this Partial Consent Decree includes a task
16 or requirement that extends beyond June 30, 2006, that task or requirement shall be prorated or
17 apportioned on a monthly basis.
18

19 B. **THIS PARAGRAPH IS RESERVED FOR FUTURE USE.**

20 C. **THIS PARAGRAPH IS RESERVED FOR FUTURE USE.**

21 D. The Partial Consent Decree shall not terminate: 1) if the City has not filed the
22 certification described in Paragraph A, or 2) if EPA, Baykeeper or Surfrider object in writing to
23 the City's certification within three (3) months of the City's certification. Such objections shall
24 set forth the specific components of the certification alleged not to be complete. If any party
25
26
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28

1 objects in writing to the City's certification, such dispute shall be resolved pursuant to Section IX
2 (Dispute Resolution). This Partial Consent Decree shall remain in effect pending resolution of
3 the dispute, provided however, the City shall not be obligated to perform any obligation not
4 expressly contested pursuant to this Paragraph.
5

6 **XXV. SIGNATORIES**

7 A. The signatories for the Parties certify that they are fully authorized to enter into
8 the terms and conditions of this Partial Consent Decree and to execute and legally bind such
9 Parties to this document.
10

11 B. The Parties shall identify on the attached signature pages the name, address,
12 telephone number, and fax number of one (1) agent who is authorized to accept service by mail
13 on the Party's behalf with respect to all matters arising under or related to this Partial Consent
14 Decree.
15

16 **XXVI. COUNTERPARTS**

17 This Partial Consent Decree may be executed in any number of counterpart originals,
18 each of which shall be deemed to constitute an original agreement, and all of which shall
19 constitute one (1) agreement. The execution of one counterpart by any party shall have the same
20 force and effect as if that party had signed all other counterparts.
21

22 **XXVII. PUBLIC COMMENT**

23 The United States consents to the entry of this Partial Consent Decree subject to the
24 publication of notice of this Partial Consent Decree pursuant to 28 C.F.R. 50.7. The United
25 States reserve its rights to withdraw or withhold consent to this Partial Consent Decree if public
26 comments disclose facts or considerations indicating this Partial Consent Decree is inappropriate,
27
28

1 improper, or inadequate. The City agrees to entry of this Partial Consent Decree without further
2 notice.
3
4
5

6 IT IS SO ORDERED this ____ day of _____, 2005.
7
8

9 _____
10 HON. RUDI M. BREWSTER
11 UNITED STATES DISTRICT COURT JUDGE
12 SOUTHERN DISTRICT OF CALIFORNIA
13
14
15
16
17
18
19
20
21
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23
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28

1 THE UNDERSIGNED PARTY enters into this Partial Consent Decree in the matter of United
2 States, et al. v. City of San Diego.

3
4 FOR THE UNITED STATES OF AMERICA:

5
6
7
8
9 _____
10 KELLY A. JOHNSON
11 Acting Assistant Attorney General
12 Environment and Natural Resources
13 Division
14 United States Department of Justice
15 Washington, DC 20530

4/25/05
Dated

16
17 _____
18 BRADLEY O'BRIEN
19 Environmental Enforcement Section
20 Environment and Natural Resources
21 Division
22 United States Department of Justice
23 301 Howard Street, Suite 1050
24 San Francisco, California 94105

Dated

1 THE UNDERSIGNED PARTY enters into this Partial Consent Decree in the matter of United
2 States, et al. v. City of San Diego.

3
4 FOR THE ENVIRONMENTAL PROTECTION AGENCY:
5
6
7

8
9 _____
10 WAYNE NASTRI
11 Regional Administrator
12 U.S. Environmental Protection Agency
13 Region IX
14 75 Hawthorne Street
15 San Francisco, California 94105

_____ Dated

16 _____
17 THOMAS SKINNER
18 Acting Assistant Administrator
19 for Enforcement & Compliance Assurance
20 U.S. Environmental Protection Agency
21 1200 Pennsylvania Avenue, NW
22 Washington, DC 20460-0001

_____ Dated

23 _____
24 GAIL COOPER
25 Office of Regional Counsel
26 U.S. Environmental Protection Agency
27 Region IX
28 75 Hawthorne Street
San Francisco, California 94105

_____ Dated

1 THE UNDERSIGNED PARTY enters into this Partial Consent Decree in the matter of United
2 States, et al. v. City of San Diego.

3
4 FOR SAN DIEGO BAYKEEPER:

5
6
7
8
9 _____
BRUCE REZNICK

_____ Dated

10
11
12
13
14
15 _____
MARCO GONZALEZ

_____ Dated

1 THE UNDERSIGNED PARTY enters into this Partial Consent Decree in the matter of United
2 States, et al. v. City of San Diego.

3
4 FOR SURFRIDER FOUNDATION:

5
6
7
8
9 _____
CHRIS EVANS
Executive Director

_____ Dated

10
11
12
13
14
15 _____
MARCO GONZALEZ

_____ Dated

1 THE UNDERSIGNED PARTY enters into this Partial Consent Decree in the matter of United
2 States, et al. v. City of San Diego.

3
4 FOR THE CITY OF SAN DIEGO:

5
6
7
8
9 RICHARD MENDES

10 Deputy City Manager

11 202 C Street

12 San Diego, California 92101

4/5/05
Dated

13
14 TED BROMFIELD

15 Office of the San Diego City Attorney

16 1200 3rd Avenue, Suite 1100

17 San Diego, California 90012-4112

4/5/05
Dated